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FISCAL IMPACT REPORT

SPONSOR Begaye DATE TYPED 02/23/05 HB HJM 39

SHORT TITLE Settle Cobell v. Norton Lawsuit SB _____

ANALYST Weber

APPROPRIATION

| Appropriation Contained | | Estimated Additional Impact | | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|------|----------------------|---------------|
| FY05 | FY06 | FY05 | FY06 | | |
| | NFI | | | | |
| | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Indian Affairs Department

SUMMARY

Synopsis of Bill

House Joint Memorial 39 (HJM 39) requests the United States Government to settle the *Cobell v. Norton* class action lawsuit.

Significant Issues

The following was supplied by the Indian Affairs Department.

The class action lawsuit was originally filed in 1996 by lead plaintiff Elouise Cobell, who had tried for years to get an accurate accounting of funds held in trust by the U.S. government for individual Indian-owned land that had been leased by the federal government for mining, grazing, oil and gas exploration and other uses. In two separate trials, a federal judge found that the U.S. Department of the Interior and the U.S. Treasury engaged in “fiscal and governmental irresponsibility in its purest form” in maintaining and accounting for the trust assets belonging to 500,000 individual Indians (allottees), owning individual Indian allotments.

New Mexico is among the top three states in percentage of land belonging to Indians, with more than eight 8 million mineral and surface acres that lie on Indian trust land under the trusteeship of the Secretary of the Interior. Few states will be as affected as New Mexico by the outcome of the litigation because the dollar values of the Individual Indian Money (IIM) trust accounts for New Mexico individual allottees (from the Navajo Nation, Jicarilla Apache and Laguna Pueblo) are higher than Indians in other states, especially for Navajos (4000 allotments totaling 694,374 acres). The broken system allows Indian allottees to receive far less than fair market value for the use of land and resources. For example, in eastern NM, for every dollar that a Navajo allottee receives in oil and gas revenues, their non-Indian counterpart receives ten dollars. Jicarilla Apache is the single largest mineral owner in the basin, excluding the U.S. government. During more than 35 years of gas and oil activity on the reservation, over 2,700 wells were drilled. The 1993 production from 2,200 actives wells was nearly 900,000 barrels of oil and 30 cubic feet of gas.

The plaintiffs in Cobell are among the poorest citizens in the U.S. After nine years of litigation and numerous courtroom victories, not one of the estimated 500,000 IIM trust accounts has been certified.

In August 2004, Indian Affairs Department Cabinet Secretary and members of the Cobell litigation team met with IIM account holders in the Nageezi Chapter of the Navajo Nation for a one day discussion session. The Secretary and members of the litigation team heard concerns of the account holders and gave an update on the status of the litigation and toured the chapter area to view the problems experienced by the allottees, including the open and exposed pipelines near the homes located on individual allotments. It was clear from the comments received at this meeting that N.M. citizens are suffering at the hands of the federal government that will not follow through on its trust responsibility. Several Navajo citizens voiced their opinion that the case must be settled soon. There were examples given of individuals dying without receiving their fair share of monies owed to them for the oil and gas that is pumped from their land. The litigation team indicated that the U.S. Department of Interior was utilizing every possible stall tactic available and not negotiating a settlement in good faith with the plaintiffs.

HJM 39 could provide support to the plaintiffs in the case, which includes 4,697 individual allotments made to the Jicarilla Apache tribal members, totaling 1,072,220 acres, and 4,000 allotments to Navajos, totaling 694,374 acres in eastern New Mexico.

MW/lg